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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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tlc

FILE:

Office: SALT LAKE CITY, UT Date: **MAR 07 2008**

IN RE:

Applicant:

APPLICATION: Application for Permission to Reapply for Admission into the United States after
Deportation or Removal.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Application for Permission to Reapply for Admission into the United States after Deportation or Removal (I-212 application) was denied by the Field Office Director, Salt Lake City, Utah. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The application will be denied.

The record reflects that the applicant is a native and citizen of Mexico. The applicant is married to a U.S. lawful permanent resident and she has three U.S. citizen children. On or about July 18, 2003, the applicant was apprehended by U.S. immigration officials at the U.S. border with Mexico, after she presented a false U.S. birth certificate, and she falsely claimed to be U.S. citizen. The applicant was found to be inadmissible under sections 212(a)(7)(A)(i)(I) and 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1182(a)(7)(A)(i)(I) and 1182(a)(6)(C)(ii), as an alien not in possession of a valid entry document and an alien falsely claiming to be a U.S. citizen. The applicant was removed from the United States on July 19, 2003. The record reflects that the applicant attempted to reenter the United States on August 23, 2003, using a false U.S. lawful resident alien card. The applicant was again apprehended by U.S. immigration officials at the U.S. border with Mexico, and she was found to be inadmissible under section 212(a)(7)(A)(i)(I) of the Act and section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), as an alien not in possession of a valid entry document, and an alien that willfully misrepresented her true identity in an attempt to gain admission into the United States. The applicant was additionally found to be inadmissible under section 212(a)(9)(C)(i) of the Act for having been previously removed and attempting to reenter the United States without being admitted. She was removed to Mexico on August 23, 2003. The applicant presently seeks permission to reapply for admission into the United States after deportation or removal.

Section 212(a)(6)(C) states in pertinent part that:

(i) [A]ny alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

(ii) Falsely claiming citizenship-

(I) In General- Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

....

(iii) Waiver authorized. - For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act, 8 U.S.C. § 1182(i), provides in pertinent part that:

(1) The Attorney General [now Secretary, Department Homeland Security, "Secretary"] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien

It is noted that a section 212(i) of the Act waiver of inadmissibility is available to an alien found inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. The waiver of inadmissibility is not, however, available to an alien found inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act.

In the present matter, the record reflects that on July 18, 2003, the applicant attempted to enter the United States with a fraudulent U.S. birth certificate, and that she falsely claimed to be a U.S. citizen. The applicant was found to be inadmissible and ordered removed pursuant to section 212(a)(6)(C)(ii) of the Act on July 19, 2003. Because the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act, she is not eligible for a section 212(i) of the Act waiver of inadmissibility and she is, in effect, permanently barred from admission into the United States.

Matter of Martinez-Torres, 10 I&N Dec. 776 (Reg. Comm. 1964), held that in the case of an applicant who is mandatorily inadmissible to the United States, "no purpose would be served in granting [the] application for permission to reapply for admission into the United States." *Matter of Martinez-Torres* held further that the denial of such a Form I-212 application, as a matter of administrative discretion, is proper.

A review of the documentation in the record reflects that the applicant is statutorily inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act. Because a waiver of inadmissibility is not available to the applicant, no purpose would be served in adjudicating the I-212 application to reapply for admission into the United States, or in the favorable exercise of discretion in such an application. The I-212 application was thus properly denied by the field office director, and the appeal will be dismissed and the application denied.

ORDER: The appeal is dismissed. The application is denied.